

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

AMERICAN MORTGAGE INVESTMENT
PARTNERS WILMINGTON SAVINGS FUND
SOCIETY, FSB, D/B/A CHRISTIANA TRUST
AS TRUSTEE OF THE RESIDENTIAL
CREDIT OPPORTUNITIES TRUST V,

Plaintiff,

Case 1:18-CV-00987 KG-KK

vs.

JAIMIE CAPITO, THE UNKNOWN SPOUSE
OF JAIMIE CAPITO, and NEW MEXICO
MORTGAGE FINANCE AUTHORITY,

Defendants.

ORDER GRANTING PLAINTIFF'S MOTION FOR
DEFAULT JUDGMENT SEEKING FORECLOSURE

THIS MATTER comes before the Court on Plaintiff's Motion for Default Judgment Seeking Foreclosure. No response to the Motion has been filed and the date for filing a response has passed. Plaintiff is not seeking a deficiency judgment against Defendant Jaimie Capito. There being no opposition to the Motion, the Court hereby GRANTS the Motion for Default Judgment on Foreclosure as follows:

1. No deficiency judgment is sought in this matter.
2. Plaintiff is granted an In Rem Judgment in the amount described below against the real estate described as:

LOT NUMBERED OE¹ HUNDRED NINETEEN-P-ONE (119-P1), PLAT FOR
EL RANCHO GRANDE UNIT 14, WITHIN THE TOWN OF ATRISCO GRANT,
PROJECTED SECTION 4 & 5, TOWNSHIP 9 NORTH, RANGE 2 EAST,

¹ [Sic]. The Deed of Trust contains what appears to be a typographical error and should state "One" instead of "Oe".

NMPM, CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, AS THE SAME IS SHOWN AND DESIGNATED ON THE PLAT OF SAID SUBDIVISION, FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO ON JULY 2, 2004, RECORDED IN PLAT BOOK 2004C, FOLIO 202.

including any improvements, fixtures, and attachments, such as, but not limited to, mobile homes. The real property that is the subject matter of this foreclosure action (the “described property”) is more commonly known as 10216 Sandy Trail Rd. SW, Albuquerque, New Mexico 87121.

3. Defendant Jamie Capito has failed to make payments due under the Note and Mortgage attached to the Complaint in this matter. The terms of the Note and Mortgage entitle Plaintiff to foreclose the Mortgage and to have the described property sold in order to collect the principal and interest due and that total sum is declared to be a lien upon the described property.

4. As more particularly described below, the total judgment amount in favor of the Plaintiff is \$153,206.74 plus interest at the rate of \$9.50 per diem from the date of September 11, 2018, forward.

5. The judgment amount includes the principal balance of \$151,305.79, plus interest of \$1,795.24 as of September 10, 2018, and thereafter accruing at the rate of \$9.50 per day, plus loan fees and late charges.

6. Plaintiff’s mortgage on the described property is foreclosed and all the described property is ordered sold in accordance with the laws, rules and practices of this Court to the highest bidder, for cash. Such sale shall be as soon as the Special Master can arrange for and publish the sale.

7. Jason Wexler is hereby appointed as Special Master to conduct such sale. As needed, the special master may appoint an alternative designee to fulfill his obligations as special

master without further order of the Court in which case the designee assumes all the special master's responsibilities.

8. The proceeds of this sale shall be applied in the following amounts and in the following priorities:

- a. Cost and expenses of the special master and other foreclosure fees.
- b. Amounts paid by Plaintiff for title commitments, expenses, costs of this action and any tax, assessments or costs which are or may be due under the terms of the note and mortgage.
- c. The amount due to Plaintiff for the principal and interest due on the Note and Mortgage attached to the Complaint through the date of this Judgment, plus interest on the total amount of Plaintiff's Judgment from the date hereof until paid.
- d. The amount due to New Mexico Mortgage Finance Authority according to its respective interest in the Property.
- e. After paying all of the above, should there be any money from the judicial sale left over, it shall be paid to Jaimie Capito.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, should the proceeds of the judicial sale of the described property be insufficient to pay the full amount of the debt to Plaintiff and the costs of judicial sale, that Plaintiff agrees to waive any deficiency judgment against Defendant Jaimie Capito.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there are no valid liens or encumbrances on the described property prior to Plaintiff's lien and that Defendant Jaimie Capito is adjudged not to have any other rights or interests in the described property, and any rights that she has are hereby foreclosed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT Defendant New Mexico Mortgage Finance Authority's interest in the described property is foreclosed. New Mexico Mortgage finance authority filed a Notice of Disclaimer on November 24, 2018, disclaiming any interest in the described property and consenting to entry of judgment, and thus any rights that it has in the described property are hereby foreclosed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT any interest claimed by any party in the Property that arose subsequent to the recorded notice of lis pendens related to this lawsuit is invalid.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Jaimie Capito shall relinquish possession of the described property on or before fourteen (14) days from the date of this Order unless Plaintiff agrees. Plaintiff shall be entitled to an order directing an appropriate law enforcement official to remove any and all occupants from the described property and putting Plaintiff in possession until the foreclosure sale.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Special Master will execute and deliver to the purchaser of the described property a good and sufficient special master's deed or sale receipt when the special master's report is approved by this Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the purchaser of the described property be let into possession of the same on production of the special master's deed or sale receipt.

THEREFORE, this purchaser shall hold the described property free and clear of all right, title and interest of Defendants, as well as all persons claiming under them subsequent to the execution of said note and mortgage at issue in this foreclosure action. Defendants are hereby and forever barred and foreclosed from having or claiming any right, title or interest in the described

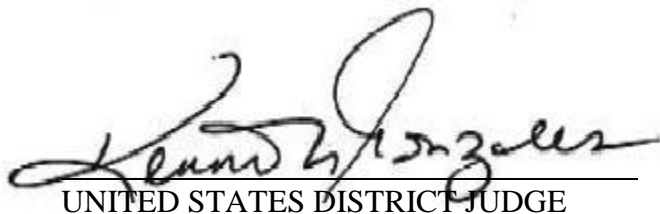
property adverse to the purchaser, therefore, except only the right of redemption allowed by the law.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if personal property remains on the described property after entry of the order approving sale in this matter that the personal property is deemed abandoned and the purchaser may dispose of the personal property in any manner pursuant to applicable law.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff may bid at such sale or may become said purchaser of the described property foreclosed herein and that Plaintiff may bid the full or partial amount of its Judgment as a credit bid at the foreclosure sale for the described property in lieu of bidding cash.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the period of redemption shall be one (1) month.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff has the right to file transcripts of judgment in the property records and other necessary filings in the property records to effectuate this Order and to effectuate transfer of the property.


UNITED STATES DISTRICT JUDGE

SUBMITTED BY:

LEWIS BRISBOIS BISGAARD AND SMITH LLP

/s/ Ryan M. Walters

Ryan M. Walters

Attorneys for Plaintiff

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APPROVED BY:

(no response received)

Jamie Capito

10216 Sandy Trail Rd. SW

Albuquerque, NM 87121

/s/ Jason C. Bousliman (approved via email March 20, 2019)

Jason C. Bousliman

Weinstein & Riley, PS

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Mortgage Finance Authority

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